

**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554**

In the Matter of)	
)	
)	
2002 Biennial Regulatory Review – Review of)	MB Docket No. 02-277
the Commission’s Broadcast Ownership Rules)	
and Other Rules Adopted Pursuant to Section)	
202 of the Telecommunications Act of 1996)	
)	
Cross-Ownership of Broadcast Stations and)	MM Docket No. 01-235
Newspapers)	
)	
Rules and Policies Concerning Multiple)	MM Docket No. 01-317
Ownership of Radio Broadcast Stations in Local)	
Markets)	
)	
Definition of Radio Markets)	MM Docket No. 00-244

To: The Commission

REPLY COMMENTS OF LOUISVILLE COMMUNICATIONS, LLC

Louisville Communications, LLC (“Louisville Communications”), by and through its attorneys, hereby submits these Reply Comments in the above-captioned proceeding. *Notice of Proposed Rule Making*, FCC 02-249 (September 23, 2002) (“*NPRM*”). Louisville Communications is the licensee of full service television broadcast station WBKI-TV, NTSC Channel 34, WB Network Affiliate, Campbellsville, Kentucky and Class A television broadcast station WBKI-CA, Louisville, Kentucky and is the permittee of unbuilt digital television broadcast station WBKI-DT, DTV Channel 19, Campbellsville, Kentucky.

The purpose of these Reply Comments is to support those Comments which argue in favor of the Commission viewing Class A television stations (“Class A TV Stations”) as local

transmission services and as “voices,” or the equivalent, for any and all purposes under the Communications Act, including the ownership regulations which are the subject of this proceeding.

Louisville Commissions does not take a position on any specific ownership rule or policy proposal before the Commission in this proceeding. However, if the Commission retains or adopts any ownership regulation or policy that requires a determination of the number of “voices” or the equivalent in a market, Louisville Communications urges the Commission to accept Class A TV Stations in that analysis. Class A TV Stations are, for the most part, not owned by national networks or other media conglomerates and, thus, contribute to the Commission’s goals of ownership and viewpoint diversity. Class A TV Stations also have mandatory local programming requirements which enhance the Commission’s goal of localism. Moreover, Class A TV Stations are required to comply with virtually all of the same Part 73 regulations that govern full-power broadcast stations, and receive similar benefits, including protection from interference. While Class A TV Stations may not generally have audience or revenue shares comparable to full-power stations, the Commission has never considered a broadcast station’s market share or popularity in determining whether that station contributes to diversity or localism in that market. Accordingly, the Commission should consider Class A TV Stations in any “voice” test it adopts.

Discussion

Class A TV Stations contribute significantly to ownership diversity, viewpoint diversity and localism, the very policy underpinnings of the Commission’s ownership regulations. *NPRM*, at ¶ 29. As of September 2002, there were 568 Class A TV Stations operating in the fifty states.¹

¹ Public Notice, “Broadcast Station Totals as of September 30, 2002” (November 6, 2002).

The vast majority of these stations are independent of the national networks or other media conglomerates and, accordingly, foster diversity of ownership and viewpoints. With respect to localism, Class A TV Stations are required to provide an average of at least 3 hours per week of locally produced programming. 47 C.F.R. § 73.6001. Furthermore, as the Commission has previously concluded, the signal coverage area of Class A TV Stations necessitates that “low power stations [be] very responsive to the interests of local consumers, to assure economic viability.”²

The Commission itself originally justified establishing low power television (“LPTV”) service in order to increase diversity and local programming.³ The Commission has since repeatedly noted that:

The hallmarks of the LPTV service are TV ‘localism’ and specialized ‘niche’ programming. Many LPTV stations are local news and public affairs programs and significant amounts of other locally produced programming. LPTV stations serve the needs and interests of many different ethnic communities, often airing programming in foreign languages.⁴

LPTV service has also provided “first-time ownership opportunities for minorities and women.”

Establishment of a Class A Television Service, 15 FCC Rcd 6355, at ¶ 3 (2000). Congress itself recognized the important contributions of LPTV stations and enacted the Community

Broadcasters Protection Act of 1999, directing the Commission to accord “Class A” protection to

² *An Inquiry into the Future Role of Low Power Television Broadcasting and Television Translators in the National Telecommunications System*, 51 RR 2d 476, at ¶ 14 (1982).

³ *Id.* at ¶¶ 11-12 (1982).

⁴ *Review of the Commission’s Rules Governing the Low Power Television Service*, 9 FCC Rcd 2555, at ¶ 2 (1994); *see also Review of the Commission’s Rules Governing the Low Power Television Service*, 9 FCC Rcd 2555, at ¶ 2 (1994); *Establishment of a Class A Television Service*, 15 FCC Rcd 6355, at ¶¶ 1-3 (2000).

qualifying LPTV stations.⁵ Given the acknowledged contributions to diversity and localism of Class A TV Stations, it would be inconsistent with Congressional intent, and thus improper, for the Commission not to award full “voice” status, or the equivalent, in the context of its ownership regulations and other related matters.

Class A TV Stations have the same obligations of all the Part 73 full-power stations, except those regulations that cannot apply for technical reasons.⁶ For example, as mentioned above, Class A TV Stations must originate a certain minimum amount of locally produced programming. Class A TV Stations must carry Children’s programming and otherwise comply with the rules governing children’s programming. A Class A TV Station is part of the Emergency Alert System. It must maintain a local public inspection file.⁷ Class A TV Stations are accorded interference protection (47 C.F.R. § 74.705) and can be (and are) carried on cable systems. 47 C.F.R. § 75.55(d). Some requirements are applied even more onerously to Class A Stations than to full-power television stations. For example, Class A TV Stations must maintain a main studio within the Grade B contour of the station, as opposed to within 25 miles from the center of the community of license for full-power stations. 47 C.F.R. § 73.1125. Also, Class A TV Stations must operate for a minimum of 18 hours per day (47 C.F.R. § 73.1740(a)(5)), which exceeds the minimum operating schedule of full-power television stations which are only required to operate a minimum of two hours per day and 28 hours per week. 47 C.F.R. § 73.1740(a)(2)(ii). In short, a Class A TV Station is a local transmission service for all relevant and material purposes under the Communications Act.

⁵ Pub. L. No. 106-113, 113 Stat. Appendix I at pp. 1501A-594 to 1501A-598 (1999), codified at 47 U.S.C. § 336(f).

⁶ *Establishment of a Class A Television Service*, 15 FCC Rcd 6355, at ¶23 (2000).

⁷ *Id.* at ¶¶ 23-24.

While Class A TV Stations may not generally have the audience and revenue shares of a full-power station, such a fact is irrelevant in terms of the contribution to localism and diversity. The Commission engages in ownership analyses to ensure ownership diversity, viewpoint diversity, and localism. In doing so, it has never considered a broadcast station's market share or popularity in determining whether that station contributes to diversity or localism in that market. Thus, under the current eight-voices test, a full-power station could have negligible audience or revenue share and yet still be counted as a "voice" for purposes of assessing concentration.

Louisville Communications is not alone in its position that Class A TV Stations should be considered a "voice" or the equivalent for, at least, ownership purposes. A significant number of parties have concluded similarly in their initial comments in this proceeding.⁸ Additionally, other commenters, while not specifically addressing Class A TV Stations, supported a broad definition of "voices," which would include any media outlet, such as a Class A TV Station, that provides an outlet for expressing local news, public affairs programming, or other measure of viewpoint diversity or localism.⁹

⁸ See, e.g., Comments of Information Policy Institute, at pp. 24-27; see also Comments of Emmis Communications Corporation, at 29; Comments of Fox Entertainment Group *et al.*, at pp. 14-15; Comments of Gray Television, Inc., at p. 10; Comments of the National Association of Broadcasters, at pp. 10-11.

⁹ See, e.g., Comments of Bonneville International Corporation, at p. 5; Comments of The Dispatch Broadcast Group, at p. 10; Comments of Hearst-Argyle Television, Inc., at pp. 3-5; Comments of Media General, Inc. *et al.*, at pp. 4, 6; Comments of Morris Communications Corporation, at pp. 10-12; Comments of the Newspaper Association of America, at pp. 5-11; Comments of Pappas Telecasting Companies, at pp. 13, 15; Comments of Sinclair Broadcast Group, Inc., at pp. 20-45.

Based on the foregoing, Louisville Communications respectfully urges the Commission to consider Class A TV Stations as a local transmission service and “voice” or the equivalent for any and all purposes under the Communications Act, including the ownership regulations which are the subject of this proceeding.

Respectfully submitted,

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